

EXHIBIT 21

UNITED STATES INTERNATIONAL TRADE COMMISSION

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In the Matter of

Investigation No.

CERTAIN LIGHT-BASED PHYSIOLOGICAL

337-TA-1276

MEASUREMENT DEVICES AND COMPONENTS

THEREOF

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OPEN SESSIONS

Pages: 1 through 282 (with excerpts)

Place: Washington, D.C.

Date: June 6, 2022

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1 UNITED STATES INTERNATIONAL TRADE COMMISSION

2 Washington, D.C.

3 Before the Honorable Monica Bhattacharyya

4 Administrative Law Judge

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9 CERTAIN LIGHT-BASED PHYSIOLOGICAL 337-TA-1276

10 MEASUREMENT DEVICES AND COMPONENTS

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15 EVIDENTIARY HEARING

16 Monday, June 6, 2022

17 Volume I

18

19

20 The parties met via remote videoconferencing
21 pursuant to notice of the Administrative Law Judge at 9:30
22 a.m. Eastern.

23

24

25 Reported by: Linda S. Kinkade RDR CRR RMR RPR CSR

1 far enough. There are distinctions between each of the
2 asserted claims and the Apple Watch. So we believe the
3 claims are both invalid and not infringed.

4 And, to boot, as I mentioned earlier, the
5 domestic industry contentions in this case, I think
6 Ms. Swaroop suggested at one point that there's a burden on
7 Masimo from having to put in evidence on undisputed issues.

8 Let me be clear. Domestic industry issues are
9 hotly contested. We think for four of the five
10 patents-in-suit, there's nothing remotely close to domestic
11 industry as of the time of the complaint nor even today, and
12 for the fifth product there are severe problems in the
13 economic reporting data. And also for that product there's
14 no competition whatsoever between the Apple Watch and the
15 rainbow« sensors. So there is, indeed, a dispute on those
16 issues as well.

17 In short, to justify this sort of supply chain
18 cut, they would need to establish a proper factual basis on
19 all of these different issues, and we think the evidence
20 will show, again and again, they cannot meet their burden.

21 So, with that, Your Honor, I'll turn to the
22 evidence, some more specific evidence, which I'll try to
23 preview and contextualize. I'll start with just a few words
24 about Apple.

25 Apple, of course, has been around for decades.

1 It was started in the 1970s in California by Steve Jobs and
2 Steve Wozniak working out of a garage initially. The
3 company has grown over the years, and today employs over
4 100,000 employees across the U.S. and overseas as well.

5 But the research and development is headquartered
6 in California, including at the headquarters building that
7 you see right here. And it is, by any definition, an
8 American business success story.

9 Over the years Apple has focused on industrial
10 design, and I say that not just as a history lesson, but
11 because this has particular salience and relevance to this
12 investigation, Your Honor. Over the years Apple has gone to
13 great lengths to create products that look attractive, in
14 some cases they believe beautiful, and are very easy to use.
15 But at the same time, at the same time, have immense
16 computing capabilities within them, hugely powerful devices,
17 but in these attractive, easy-to-use packages.

18 And achieving all those goals takes the talent of
19 thousands of engineers, including the six who Your Honor
20 will hear from. They helped design the Apple Watch or
21 different parts of the Apple Watch.

22 The original Apple Watch, the Series 0, was
23 released in 2015. Mr. Land, the head of the Health Sensing
24 Hardware Group, was at the company at the time, and he will
25 explain to you some of the work that he personally did in

1 connection with the Series 0 watch.

2 The Series 0 watch had a wide array of software
3 capabilities. It allowed for users to customize the apps
4 that they could use on the watch, as just one example.
5 Music can be downloaded to use the watch, the original
6 watch, as, effectively, a wrist-worn iPod.

7 It also also some health functionality, including
8 calorie tracking, standing and exercise apps, and it had a
9 heart rate sensor that Mr. Land himself worked on.

10 It also had LEDs and photodiodes for various
11 purposes, including heart rate sensing, and it had a curved
12 back crystal. Your Honor is going to hear a fair amount
13 about the back of the Apple Watch, including the accused
14 Series 6 and Series 7 models. But Your Honor will hear that
15 the shape, a dome shape of the watch, has been constant
16 since the Series 0.

17 And the reason for that domed, curved shape,
18 there are multiple reasons, one of which has to do with
19 charging. Your Honor may have seen that the Apple Watch can
20 be placed in a charging cradle. The dome fits snugly in the
21 cradle and is designed to align the watch with the charging
22 hardware components so that the charging can occur in an
23 efficient way. There was a very practical reason for that
24 dome shape. Again, that was part of the original Apple
25 Watch.

1 Over the years the Apple engineers have made
2 various improvements to the Apple Watch, the Series 1 and 2,
3 Series 3, Series 4, 5, and then we arrive at the Series 6
4 and 7, the accused products in this investigation,
5 achievements over the years by various Apple engineers to
6 move the ball forward.

7 Now I'm just going to note here, those
8 achievements owe absolutely nothing to Masimo trade secrets,
9 Masimo proprietary information. Any suggestion that the
10 Apple engineers took Masimo information to put in the
11 hardware or software of the Apple Watch is false.
12 Your Honor will hear that firsthand from six different Apple
13 engineers.

14 The Series 6, among the improved features and
15 functions, included a processor and altimeter, a new and
16 better display, a new operating system. It also supported
17 some features used in the earlier models.

18 It included a blood oxygen sensor. This was the
19 first Apple Watch to include a blood oxygen sensor.
20 Your Honor will hear precisely how that sensor was
21 developed. It took years of hard work, including by the
22 folks who have come here to testify before Your Honor.

23 It also, the Series 6, supported features
24 available in some earlier models, including health
25 functionality.

1 Series 7, another advance in the display, some
2 improved durability and environmental sealing. As
3 Your Honor will hear, the watch is a waterproof device
4 designed for swimming and other activities that could expose
5 the device to water or moisture, other contaminants.

6 It is designed explicitly not to have holes in
7 it, which would allow water or other contaminants to enter
8 into the structure. It is a sealed structure. It always
9 has been. It has no openings.

10 The Series 7 also has the WatchOS 8 operating
11 system, a new advance in the operating system, and it
12 retained the blood oxygen sensor and other features like the
13 heart rate monitor from the Series 6.

14 Now, if we look at the full range of Apple
15 models, they represent years upon years of hard work by
16 many, many, many engineers within Apple. And there are, of
17 course, far more features in these devices than just the
18 health-sensing hardware. There's a whole panoply of
19 features and functions available to Apple Watch users. Even
20 within the context of the health-sensing hardware there's
21 far more than just the blood oxygen sensor.

22 So what is occurring in this case is Masimo is
23 targeting a sliver of the function in the overall watch and
24 arguing that sliver justifies an import ban on the entire
25 Series 6 and the entire Series 7. And we believe the